

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SHERROD RICE	:	CIVIL ACTION
	:	
v.	:	
	:	
THOMAS McGINLEY, THE DISTRICT	:	
ATTORNEY OF THE COUNTY OF	:	
OF PHILADELPHIA and THE	:	
ATTORNEY GENERAL OF THE	:	
STATE OF PENNSYLVANIA	:	NO. 17-1503

ORDER

NOW, this 22nd day of June, 2021, upon consideration of the Amended Petition for Writ of *Habeas Corpus* Pursuant to 28 U.S.C. § 2254 (Doc. No. 16), respondents' response to the amended petition, petitioner's reply, the Report and Recommendation of United States Magistrate Judge Richard A. Lloret (Doc. No. 43), and respondents' Notice of Non-Objection to the Report and Recommendation (Doc. No. 48), and after a thorough and independent review of the record, it is **ORDERED** that:

1. The Report and Recommendation of Magistrate Judge Richard A. Lloret is **APPROVED** and **ADOPTED**.

2. The Amended Petition for Writ of *Habeas Corpus* is **CONDITIONALLY GRANTED** to the extent that it challenges the effectiveness of trial and PCRA counsel for failing to raise and litigate the federal due process and Sixth Amendment issue of the jury instructions on accomplice liability for purposes of the first-degree murder charge in *Commonwealth v. Sherrod Rice*, CP-51-CR-0400702-2003.

3. In all other respects, the Amended Petition is **DENIED**.

4. Within 180 days of the date of this Order, petitioner shall be retried on the first-degree murder charge only.

5. If the Commonwealth fails to retry petitioner within 180 days from the date of this Order, the Writ shall issue and petitioner's conviction on the charge of first-degree murder shall be vacated.

6. The time limit within which the Commonwealth may retry the petitioner may be extended by agreement of the parties or upon a showing of reasonable cause.

7. There is no probable cause to issue a certificate of appealability on petitioner's remaining claims.

/s/ TIMOTHY J. SAVAGE J.